IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

Crl.MC.No. 48 of 2007()

CC.22/2004 of ENQUIRY COMMR. & SPL. JUDGE, THRISSUR

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PETITIONER:

G.SASIKUMAR,
UPPER DIVISION CLERK (H.G.), P.H.CENTRE,
POOKKATTU KAVU, KADAMPOOR P.O.
PALGHAT DISTRICT.

BY ADV. SRI.P.K.ABOOBACKER(EDAPPALLY)

RESPONDENTS:

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1. THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SUPDT. OF VIGILANCE,
VIGILANCE DEPARTMENT,
ERNAKULAM.

3. THE ENQUIRY COMMISSIONER &
SPECIAL JUDGE, THRISSUR REP. BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.48 of 2007

Dated this the 5th day of January, 2007

ORDER

The petitioner faces indictment in a prosecution, inter alia, under Section 409, 420 and 468 of the I.P.C and Section 13 of the Prevention of Corruption Act. Cognizance has been taken on the basis of the final report submitted by the respondent/police. The petitioner claimed discharge. The learned Enquiry Commissioner by the impugned order rejected the prayer for discharge. The petitioner claims to be aggrieved by the impugned order and has come to this Court with this petition under Section 482 Cr.P.C.

2. The impugned order is certainly a revisable order. However, I am satisfied that on that technicality this Crl.M.C need not be rejected.

3. What is the challenge against the impugned order ? The short contention is that as per the administrative instructions prevalent, the respondent/police is not bound to conduct investigation in a matter where the amount involved is less than Rs.50,000/-. The learned Special Judge had considered this aspect and had come to the conclusion that the administrative instructions cannot override the provisions of the Code of Criminal Procedure nor operate to take away the jurisdiction of the court under the Criminal Procedure Code. No

better contentions are urged before me. The same contention is repeated. I am of the view that the learned Special Judge has considered the question in the proper perspective. At any rate, I am not satisfied, that the powers under Section 482 Cr.P.C can or need be invoked to interfere with the impugned order.

4. This Crl.M.C is, in these circumstances, dismissed. I may however hasten to observe that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all relevant and appropriate contentions before the learned Special Judge.

(R.BASANT, JUDGE)

rtr/-